

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA :

-against- :

JOVANNY RODRIGUEZ, :

Defendant. :
-----X

No. 11 Cr. 755 (JFK)

No. 20 Civ. 9097 (JFK)

ORDER

JOHN F. KEENAN, United States District Judge:

On October 29, 2020, Defendant-Petitioner Jovanny Rodriguez ("Rodriguez") filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. (Docket No. 20 Civ. 9097; ECF No. 1). One of the arguments Rodriguez raises in support of his motion is that he received constitutionally ineffective assistance of trial counsel. (ECF Nos. 1; see also May 11, 2021, Order, ECF No. 9.)

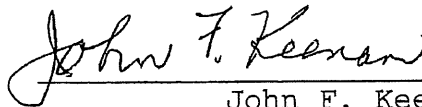
In order to resolve Rodriguez's ineffective assistance of counsel claims, it is necessary for the Court to hear from his trial counsel, Peter E. Brill. See Puglisi v. United States, 586 F.3d 209, 213 (2d Cir. 2009). Rodriguez, by raising a claim of ineffective assistance of counsel in his motion, has waived attorney-client privilege as a matter of law. See Coluccio v. United States, 289 F. Supp. 2d 303, 305 (E.D.N.Y. 2003). The Court recognizes, however, that absent a court order, ethical concerns may inhibit counsel from disclosing confidential information relating to a prior client. See, e.g., ABA Standing

Comm. on Ethics and Prof. Responsibility Formal Op. 10-456
(July, 14, 2010), Disclosure of Information to Prosecutor When
Lawyer's Former Client Brings Ineffective Assistance of Counsel
Claim.

Accordingly, it is hereby ORDERED that Rodriguez's former attorney, Peter E. Brill, shall give sworn testimony, in the form of an affidavit, addressing Rodriguez's allegations of ineffective assistance of counsel by no later than June 17, 2022.

SO ORDERED.

Dated: New York, New York
May 27, 2022



John F. Keenan
United States District Judge